

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DAVE CARLTON and SHARON KEGERREIS,
Individually and On Behalf of All Others
Similarly Situated,

Plaintiff,

vs.

FRED CANNON, JOHN K. KARNES, and
VINOD KHOSLA,

Defendants.

Civil Action No.: 4:15-cv-00012 (LHR)

**DECLARATION OF ADAM M. APTON IN SUPPORT OF PLAINTIFFS’
OMNIBUS OPPOSITION TO DEFENDANTS’ MOTIONS TO DISMISS**

I, Adam M. Apton, declare and state:

1. I am an associate with the law firm of Levi & Korsinsky, LLP, counsel for Lead Plaintiffs Dave Carlton and Sharon Kegerreis in the above-captioned action. I am licensed to practice in the State of New York and Washington D.C. I have been admitted to practice pro hac vice in the above-captioned matter before this Court. I make the following statements in this Declaration based upon my personal knowledge, and if called as a witness, I would and could testify competently thereto. I make this Declaration in support of Plaintiffs’ opposition to Defendants’ motions to dismiss.

2. Attached hereto as **Exhibit A** is a true and accurate copy of KiOR’s Form 8-K filed November 21, 2014, including Paul O’Connor’s resignation letter.

3. Attached hereto as **Exhibit B** is a true and accurate copy of KiOR’s 2012 annual report (Form 10-K) filed March 18, 2013.

4. Attached hereto as **Exhibit C** is a true and accurate copy of the Original Complaint against Fred Cannon and Vinod Khosla filed by the Attorney General of the State of Mississippi in the action styled *Jim Hood, Attorney General of the State of Mississippi, ex rel. The State of Mississippi v. Fred Cannon, et al.*, Civil Action No. 15-18.

5. Attached hereto as **Exhibit D** is a true and accurate copy of the Notice of First Interim Fee Application Request of Wilmer Cutler Pickering Hale and Dorr LLP, Special Counsel to the Debtor, for the Period from November 9, 2014 through February 28, 2015, filed in *In re KiOR, Inc.*, Case No. 14-12514 (CSS) (the “Bankruptcy Docket”), Dkt. No. 493-1.

6. Attached hereto as **Exhibit E** is a true and accurate copy of KiOR’s 2011 annual report (Form 10-K) filed March 27, 2012.

7. Attached hereto as **Exhibit F** is a true and accurate copy of the hearing transcript dated January 15, 2015 before Bankruptcy Judge Christopher S. Sontchi in the Bankruptcy Docket.

8. Attached hereto as **Exhibit G** is a true and accurate copy of the hearing transcript dated January 16, 2015 before Bankruptcy Judge Christopher S. Sontchi in the Bankruptcy Docket.

9. Attached hereto as **Exhibit H** is a true and accurate copy of KiOR’s quarterly report (Form 10-Q) for the second quarter of fiscal 2013 filed August 9, 2013.

10. Attached hereto as **Exhibit I** is a true and accurate copy of KiOR’s quarterly report (Form 10-Q) for the third quarter of fiscal 2013 filed November 12, 2013.

11. Attached hereto as **Exhibit J** is a true and accurate copy of KiOR’s Form 8-K filed September 15, 2011.

12. Attached hereto as **Exhibit K** is a true and accurate copy of Samir Kaul’s biography as published by Khosla Ventures at <http://www.khoslaventures.com/team/samir-kaul> (last accessed April 24, 2015).

13. Attached hereto as **Exhibit L** is a true and accurate copy of KiOR's 2013 annual report (Form 10-K) filed March 17, 2014.

14. Attached hereto as **Exhibit M** is a true and correct copy of *excerpt* of KiOR's Global Notes, Methodology, and Specific Disclosures Regarding the Debtor's Schedules of Assets and Liabilities and Statement of Financial Affairs filed in the Bankruptcy Docket, Dkt. No. 92, on December 3, 2014.

15. Attached hereto as **Exhibit N** is a true and correct copy of KiOR's Second Amended Chapter 11 Plan of Reorganization filed in the Bankruptcy Docket, Dkt. No. 395, on March 16, 2015.

I declare under penalty of perjury that the foregoing is true and correct
Executed this 24th day of April, 2015 at Washington, D.C.

/s/ Adam Apton
ADAM M. APTON